

Copy Bad River TAs 303+401
Application and Attachments

Bad River
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Bad River Application

BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

P.O.Box 39 • Odanah, Wisconsin 54861

March 1, 2006

Thomas Skinner
Regional Administrator
US Environmental Protection Agency
Region V
77 West Jackson Blvd.,
Chicago, Illinois 60604

Re: Application for Treatment as State for purposes of Sections 303(c) and 401 of the
Clean Water Act

Dear Administrator Skinner,

The Bad River Band of the Lake Superior Tribe of Chippewa Indians ("Band") hereby requests authorization pursuant to Clean Water Act Section 518 (33 U.S.C. § 1377(e) and 40 CFR § 131.8(a)) to pursue the adoption of a water quality standards program pursuant to the Clean Water Act (CWA) § 303 (33 U.S.C. § 1313) and to adopt and implement the certification program found at CWA § 401 (33 U.S.C. § 1341).

As demonstrated in the attached application, the Band is eligible for such approval from the Environmental Protection Agency ("EPA"), as it:

- (1) Is an Indian tribe recognized by the Secretary of the Interior;
- (2) Has a governing body carrying out substantial governmental duties and powers;
- (3) Has authority to regulate the water resources of the Bad River Indian Reservation; and
- (4) Is reasonably expected to be capable of performing the functions required by the water quality standards and certification program.

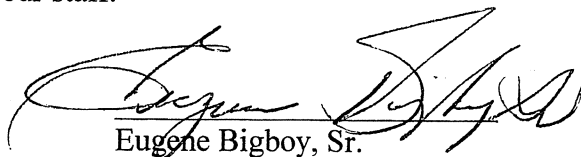
The Bad River Indian Reservation is located within the Great Lakes Basin, adjacent to Lake Superior. All Great Lakes "states" (and tribes which wish to adopt water quality standards) are obliged to adopt standards which are consistent with the Great Lakes Guidance referenced above. This guidance has been adopted by EPA to "help establish consistent, enforceable, long-term protection from all types of pollutants, but . . . place(s) short-term emphasis on the types of

long-lasting pollutants that accumulated in the food web and pose a threat to the Great Lakes System." The heavily polluted nature of many areas within the Great Lakes Basin has prompted this pro-active stance on EPA's part. A concerted, multi-media effort to protect and restore the Great Lakes ecosystem, much of which has been badly damaged in the past, has therefore been undertaken by both the U.S. and Canada.

Fortunately, virtually all surface waters of the Bad River Indian Reservation are even today of very high quality, and the Tribe wishes to see them remain that way. The Tribe is proud of the fact that the Bad River Indian Reservation also contains high quality wildlife habitat for many species, including some which are rare or endangered, and many other species of plants and animals. Again, the Tribe wishes to maintain and, where necessary, improve the existing situation with an eye toward preserving the Bad River Indian Reservation for the long-term enjoyment and sustenance of present and future generations of its members. Present day threats to tribal members' health and welfare, and the political integrity and economic security of the Tribe, which are associated with cumulative surface water discharges of pollution on and near the Bad River Reservation include failing septic systems, sedimentation, runoff, and erosion from land uses such as agriculture and forestry, and municipal wastewater discharges. The largest single existing threat is that of over 30,000 acres of land in the Penokee range under the ownership of a subsidiary of US Steel. The owners of this large land area at the headwaters of the watershed have been approaching local town boards and encouraging them to include mining as a land use in their comprehensive plans with the promise of 1000 possible mining jobs for 40 years. The potential negative impact to the watershed from an open pit mine is enormous.

A resolution of the Tribal Council supporting this application is also attached, and incorporated in the application itself by this reference.

The Band looks forward to your action on this application and appreciates the assistance which has been received on this matter from members of your staff.

A handwritten signature in dark ink, appearing to read 'Eugene Bigboy, Sr.', is written over a horizontal line.

Eugene Bigboy, Sr.
Tribal Chairman
Chief Executive Officer

BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

Resolution No. 03-01-06-256

P.O.Box 39 • Odanah, Wisconsin 54861

Approving an application for program approval to establish a water quality protection program for protection of all surface waters within the exterior boundaries of the Bad River Indian Reservation.

WHEREAS, the Bad River Band of Lake Superior Tribe of Chippewa Indians ('the Tribe') is a Federally-recognized tribe, organized under Section 16 of the Indian Reorganization Act, 25 U.S.C. § 476; and

WHEREAS, there is a need for the Tribe to protect the health and welfare of its members, maintain its political integrity and the economic security of the Tribe and its present and future members; and

WHEREAS, the water resources of the Tribe are integral to its members' health, welfare and economic security, as well as the economic security and political integrity of the Tribe itself; and

WHEREAS, the use and enjoyment of said water resources, as well as other natural and physical resources of the Tribe, are guaranteed pursuant to its Treaties with the United States; and

WHEREAS, the surface water resources of the Bad River Indian Reservation are threatened by and are subject to future threats of impairment from human activities both on and off the Bad River Indian Reservation; and

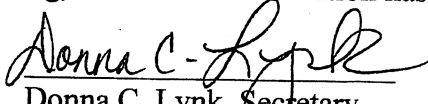
WHEREAS, the Bad River Tribal Council has determined that it is in the best interests of the Tribe, its members and the members of future generations to seek program approval for purposes establishing a water quality protection program under §303 and assuming authority pursuant to § 401 of the Clean Water Act for protection of all surface waters within the exterior boundaries of the Bad River Indian Reservation. See Exhibit A, and attachments, affixed hereto; and

WHEREAS, the Bad River Natural Resources Department, through its Water Office, is fully capable of carrying out the functions required under these programs.

NOW THEREFORE BE IT RESOLVED, that the Bad River Tribal Council hereby approves and submits the attached application on behalf of the Bad River Band of the Lake Superior Tribe of Chippewa Indians.

CERTIFICATION

I, the undersigned, as Secretary of the Bad River Band of the Lake Superior Tribe of Chippewa Indians, an Indian Tribe organized under Section 16 of the Indian Reorganization Act, hereby certify that the Tribal Council is composed of seven members, of whom 6 members, constituting a quorum, were present at a meeting duly called, noticed, convened and held on the 1st day of March, 2006, that the foregoing resolution was duly adopted at said meeting by an affirmative vote of 5 members; 0 against and 0 abstaining, and that said resolution has not been rescinded or amended.


Donna C. Lynk, Secretary
Bad River Tribal Council